

# L A W S

OF THE

## STATE OF MAINE.

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### CHAPTER I.

An Act against Treason and Misprision of Treason.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That every person whether male or female, who shall commit the crime of treason against this State, and be thereof duly convicted in the Supreme Judicial Court, shall suffer the pains of death, by being hanged by the neck until they are dead. Punishment of Treason.

SEC. 2. *Be it further enacted,* That concealment or keeping secret of any treason, be deemed and taken only misprision of treason; and the offender therein shall forfeit to the use of this State, all his goods and chattels and the profits of his lands during his life, and shall and may be imprisoned for a term not less than two years, nor exceeding five years, at the discretion of the Court before whom he shall be convicted. Concealment of Treason—only misprision of Treason.

SEC. 3. *Be it further enacted,* That any person who shall know of any Treason to be committed (and is no party or consenter to it) and shall not, within a reasonable time, give information thereof, upon oath, to one of the Justices of the Supreme Judicial Court, or some Justice of the Peace within this State, to the end the offender or offenders therein may be apprehended and be amenable to Justice, shall be taken and deemed to be guilty of misprision of treason or concealment of treason. Crime and punishment of misprision of Treason.

SEC. 4. *Be it further enacted,* That all and every person and persons whatsoever, that shall be accused and indicted for Person indicted to have

copy of Indictment two days before arraignment.

Counsel to be assigned them.

Oaths of two witnesses necessary in case of misprision of Treason—unless, &c.

Prisoners to have copy of panel of jurors two days before trial: may have compulsory process for their witnesses.

No persons to be indicted after three years next following the offence.

treason, or for misprision of treason, shall have a true copy of the whole indictment delivered unto them, or any of them, two full days at least, before he or they shall be arraigned for the same, whereby to enable them, and any of them, respectively, to advise with, counsel thereupon, to plead and make their defence, and in case any person or persons, so accused and indicted, shall desire counsel, the Court before whom such person or persons shall be tried, or some Judge of that Court, shall, and is hereby authorized and required, immediately upon his or their request, to assign to such person or persons, such and so many counsel not exceeding two, as the person or persons shall desire to whom such counsel shall have free access at all seasonable hours.

SEC. 5. *Be it further enacted,* That no person or persons whatsoever shall be indicted, tried or convicted of misprision of treason, but by and upon the oaths and testimony of two lawful witnesses, either both of them to the same overt act, or one of them to one, and the other of them to another overt act of the same species of treason, unless the party indicted and arraigned, or tried, shall willingly without violence, in open Court confess the same.

SEC. 6. *Be it further enacted,* That all and every person and persons who shall be accused, indicted and tried for treason, as aforesaid, or for misprision of treason, shall have copies of the panel of the Jurors who are to try them, delivered unto them and every of them so accused and indicted respectively, two days at least before he or they shall be tried for the same: and that all persons so accused and indicted for any treason, as aforesaid, or for misprision of treason, shall have the like process of the court where they shall be tried, to compel their witnesses to appear for them at any such trial or trials, as is usually granted to compel witness to appear against them.

SEC. 7. *Be it further enacted,* That no person or persons whatsoever shall be indicted, tried or prosecuted for any treason, or for misprision of treason, that shall be committed or done in violation of this Act, unless the indictment for the same be found within three years next after the treason done or committed.

[Approved March 19, 1821.]

## CHAPTER II.

An Act providing for the punishment of the crimes of Murder, Manslaughter, felonious Maims and Assaults, and Duelling, and for the prevention thereof.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall commit the crime of wilful murder, or shall be present, aiding and abetting, in the commission of such crime, or not being present, shall have been accessory thereto before the fact, by counselling, hiring, or otherwise procuring the same to be done, every such offender, who in the Supreme Judicial Court, shall be duly convicted of either of the felonies and offences aforesaid, shall suffer the punishment of death. And the Justices of the said Court, before whom the conviction shall be in cases of murder committed in a duel shall, and in other cases may, at their discretion, further sentence and order the body of such convict to be dissected and anatomized. And in case of further sentence, it shall be the duty of the sheriff to deliver the body of the convict, being dead, to a professor of anatomy and surgery in some public college or seminary, when it shall be required in his behalf, and otherwise to any surgeon or surgeons, who shall be attending at the place of execution, to receive the body, and will engage for the dissection and anatomizing thereof.

Punishment of murder or being accessory thereto before the fact.

Court may order body of convict to be dissected and anatomized:

Sheriff may deliver the dead body over for that purpose.

SEC. 2. *Be it further enacted*, That if any person, after a wilful murder done and committed as aforesaid, shall be accessory thereto, by knowingly receiving, harbouring, comforting, concealing, maintaining, or otherwise unlawfully assisting any principal offender, or accessory therein before the fact; every such accessory after the fact, who shall be thereof duly convicted in the Supreme Judicial Court, shall be punished by solitary imprisonment for such term, not exceeding six months, and by confinement afterwards to hard labour, for such term, not exceeding ten years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

Punishment of accessories to the crime after the fact.

Punishment of  
manslaughter.

SEC. 3. *Be it further enacted*, That if any person shall commit the crime of manslaughter, and shall be thereof duly convicted, every such offender shall be punished by solitary imprisonment, for such term not exceeding six months, and by confinement afterwards to hard labour, for such term not exceeding ten years, as the Court before whom the conviction may be, shall sentence and order ; or by fine not exceeding one thousand dollars, and imprisonment in the common gaol, for a term not exceeding three years, at the discretion of the Court, before whom the conviction may be.

Punishment  
for maiming or  
being accessary  
thereto.

SEC. 4. *Be it further enacted*, That if any person, with set purpose and aforethought malice, or intention to maim or disfigure, shall unlawfully cut out or disable the tongue, put out an eye, cut off an ear, slit the nose, or cut off the nose or lip, or cut off or disable a limb, or member of any person, every such offender, and every person privy to the intent aforesaid, who shall be present, aiding and abetting in the commission of such offence, or not being present, shall have counselled, hired or procured the same to be done, upon due conviction thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment for such term, not exceeding one year, and by confinement to hard labour, or by imprisonment in the common gaol for such time, not exceeding ten years, commencing from the expiration of such solitary imprisonment, as the Justices of the said Court before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

Punishment  
for assault with  
intent to  
commit murder,  
and being  
accessary  
thereto.

SEC. 5. *Be it further enacted*, That if any person being armed with a dangerous weapon, and with intent to commit murder, shall assault another, every such offender, and every person present aiding and abetting, or who shall be accessory before the fact, to the commission of the offence aforesaid, by counselling, hiring, or procuring the same to be done and committed, and who shall be thereof duly convicted, shall be punished by solitary imprisonment for such term, not exceeding one year, and by confinement afterwards to hard labour, for such term, not exceeding twenty years, as the Court before whom the conviction may be, shall sentence and order.

SEC. 6. *Be it further enacted,* That if any person with a dangerous weapon, and with an intention to maim or disfigure in any of the modes, mentioned in the fourth section of this Act, shall assault another ; or shall be present, aiding or abetting therein, or not being present, shall have counselled, hired or procured the same to be done, every such offender, who shall be thereof duly convicted, in the Supreme Judicial Court, shall be deemed a felonious assaulter, and shall be punished by solitary imprisonment, for such term, not exceeding six months, and by confinement afterwards to hard labor, or by imprisonment in the common gaol, for such term, not exceeding four years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

Punishment for assault with intent to maim, &c. and being accessory thereto.

SEC. 7. *Be it further enacted,* That if any person shall voluntarily engage in a duel, with rapier, a small sword, back sword, pistol, or other dangerous weapon, to the hazard of life, when no homicide shall ensue thereon ; and if any person shall, by word, message, or in any other manner, challenge another to fight in a duel, as aforesaid, when no duel shall be fought thereon, every such offender, and every person, who shall be knowingly a second, agent or abettor in such duel or challenge, upon due conviction of either of said offences in the Supreme Judicial Court, shall be punished as a felonious assaulter ; and for his further punishment, shall be disqualified from holding, and incapable of any office or place of honour, profit or trust under this State, during the term of twenty years from and after such conviction.

Punishment for engaging in a duel, giving a challenge or acting as second or abettor :

on conviction, shall be disqualified from holding any office for 20 years.

SEC. 8. *Be it further enacted,* That if any person shall accept a challenge to a duel, and shall consent to fight therein as aforesaid, when no duel shall thereupon ensue, every such offender, and every person who shall knowingly be a second, agent or abettor in such acceptance of a challenge, upon due conviction thereof in the Supreme Judicial Court, shall be punished by imprisonment in the common gaol, not exceeding one year, and shall be disqualified from holding, and incapable of any office or place of honour, profit or trust under this State, during the term of five years from and after such conviction.

Punishment for accepting a challenge—

on conviction, disqualified for holding any office for five years.

Punishment  
for concealing  
pregnancy, or  
being deliver-  
ed of a bast-  
ard.

SEC. 9. *Be it further enacted*, That if any woman shall conceal her pregnancy, and shall willingly be delivered in secret by herself, of any issue of the body, male or female which shall by law, be a bastard, every such woman so offending, shall pay a fine not exceeding the sum of one hundred dollars, to the use of the State; to be recovered by information or indictment in any Court proper to try the said offence, or imprisoned, not exceeding three months, at the discretion of the Court.

Punishment  
for endeavour-  
ing to conceal  
the death of  
such child.

SEC. 10. *Be it further enacted*, That if any woman shall endeavour privately, either by herself, or the procurement of others, to conceal the death of any such issue of her body, which, if it were born alive, would by law be a bastard, so that it may not come to light, whether it were born alive or not, or whether it was murdered, or not, in every such case, the mother, so offending, shall be punished by solitary imprisonment for a term not exceeding three months, and confinement to hard labour, for a term not exceeding five years, at the discretion of the Court.

If woman be  
indicted for  
murder of such  
child and for  
both or either  
of the above  
offences in  
same indict-  
ment, Jury may  
acquit of the  
murder & con-  
vict of both or  
either of the  
other offences.

SEC. 11. *Be it further enacted*, That if the Grand Jury shall, in the same indictment, charge any woman with the wilful murder of her infant bastard child, as well as with either or both the offences aforesaid, and it appear to the Jury of trials that she is guilty of the murder charged, she shall be thereupon convicted of murder, and suffer the pains of death as in case of murder; but if it doth not appear to the same Jury that she is guilty of the murder charged in the indictment, but only of either or both the offences aforesaid, then the same Jury may acquit her of the charge of murder, and find her guilty of the aforesaid offences or either of them, as the case may be.

[Approved February 28, 1821.]

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### CHAPTER III.

An Act providing for the punishment of Rape, and for the prevention thereof.

Punishment of  
rape and of

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That if any man shall

ravish, and carnally know any woman, by force, and against her will, or shall unlawfully and carnally know and abuse any woman child under the age of ten years, every such offender, and any person present, aiding and consenting to such rape, or accessory thereto before the fact, by counselling, procuring or commanding such rape to be committed, who shall be duly convicted in the Supreme Judicial Court, of either of the felonies and offences aforesaid, shall suffer the punishment of death.

SEC. 2. *Be it further enacted*, That if any person, after any rape committed as aforesaid, shall knowingly harbour, conceal, maintain or assist any principal offender therein, or any accessory thereto, before the fact, and shall be thereof duly convicted in the Supreme Judicial Court, every such accessory after the fact, shall be punished by solitary confinement, for such term, not exceeding three months, and by confinement to hard labour, for such term thereafter commencing, not exceeding ten years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

Punishment of accessories after the fact.

SEC. 3. *Be it further enacted*, That if any man, with intent to commit a rape as aforesaid, shall make an assault upon a woman or female child of the age of ten years and upwards, every such offender, and any person who shall consent, aid or assist therein, and shall be thereof duly convicted in the Supreme Judicial Court, shall be adjudged guilty of a felonious assault, and shall be punished by solitary imprisonment, for such term, not exceeding three months, and by confinement afterwards to hard labour, for such term not exceeding ten years, or by a fine not exceeding five hundred dollars, and by imprisonment in the common gaol for such term not exceeding one year, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

Punishment of assault, with intent to commit a rape, on woman, or child of 10 or more years old.

SEC. 4. *Be it further enacted*, That when any person shall be convicted in the Supreme Judicial Court of having made an assault on any female child under the age of ten years, with an intent to commit a rape, he shall be punished by solitary imprisonment, not exceeding four months, and after-

Punishment for an assault with such intent on a female child under ten years old.

wards by confinement to hard labour for any term of years, or for life, according to the circumstances and aggravation of the offence, as the Court in their discretion may think proper.

[Approved February 28, 1821.]

CHAPTER IV.

An Act providing for the punishment of Incendiaries, and the perpetrators of other malicious mischief.

**SEC. 1.** *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That if any person shall wilfully and maliciously set fire to the dwelling house of another, or to any out building, adjoining to such dwelling-house, and to any other building, and by the kindling of such fire or by the burning of such other building, such dwelling house shall be burnt in the night time, every such offender, and any person present, aiding, abetting or consenting, in the commission of such offence, or accessory thereto, before the fact, by counselling, hiring or procuring the same to be done, who shall be duly convicted before the Supreme Judicial Court of either of the felonies and offences aforesaid, shall suffer the punishment of death.

Burning dwelling house in night time,

punishable with death.

Punishment for burning dwelling house &c. in day time.

Punishment for burning public buildings or stores, barns &c. in night time;

or being accessory thereto before the fact.

**SEC. 2.** *Be it further enacted,* That if any person shall wilfully and maliciously burn, in the day time, the dwelling house of another, or any out building adjoining to such dwelling house or any other building, whereby such dwelling house shall be burnt; or if any person shall wilfully and maliciously set fire to any meeting house, church, court house, town house, college, academy, or other building erected for public uses, or to the store, barn or stable of another, within the curtilage of any dwelling house, and by the kindling of such fire, such meeting house, or other building, erected for public uses, or such store, barn or stable, shall be burnt in the night time, every such offender, and any person present, aiding, abetting or consenting in the commission of such offence, or accessory thereto before the fact, by counselling, hiring or procuring the same to be done, who shall be duly convicted before the Supreme Judicial Court of either of the felonies and offences aforesaid, shall be punished by solitary imprisonment for such term not exceeding one year, as the



Justices of the said Court, before whom the conviction may be, shall sentence and order, and by confinement afterwards to hard labor for life.

SEC. 3. *Be it further enacted*, That if any person shall wilfully and maliciously burn, in the day time, any meeting house or other building erected for public uses, or any store, barn or stable of another, within the curtilage of any dwelling house: or if any person shall wilfully and maliciously burn, by night or day, any other store, barn, stable, house or building whatsoever, or any ship or vessel lying in the body of any county; every such offender, and any person aiding or consenting in the commission of such offence, who shall be duly convicted thereof before the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term, not exceeding one year, and by confinement afterwards to hard labor for such term, not exceeding ten years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

for burning  
such buildings  
in day time.

SEC. 4. *Be it further enacted*, That if any person shall wilfully and maliciously burn any stack of corn, hay, grain, straw, cornstalks, flax, fences, piles of wood, boards, or other lumber; or any soil, grass, trees, poles or underwood, of another; and if any person shall wilfully and maliciously, passionately, cruelly or barbarously kill, wound, maim, or disfigure any one or more of the horses, sheep or cattle of another, every such offender, and any person aiding and consenting in the commission of such offence, who shall be duly convicted thereof before the Supreme Judicial Court, shall be punished by solitary imprisonment for such term, not exceeding six months; and by confinement afterwards to hard labor for such term not exceeding three years, or by fine not exceeding five hundred dollars, and by imprisonment in the common gaol, not exceeding one year, at the discretion of the Justices of the said Court, before whom the conviction may be, and as they shall sentence and order, according to the nature and aggravation of the offence.

—for burning  
corn, hay, fences,  
lumber &c.

—killing,  
wounding or  
disfiguring cat-  
tle, horses and  
sheep.

SEC. 5. *Be it further enacted*, That if any person, after any felony or offence done and committed, by any incendiary in any manner as aforesaid, shall knowingly harbour, conceal,

Punishment of  
accessaries  
after the fact.

maintain, assist or relieve such offender, or any accessory before the fact, in any such felony or offence, every such accessory after the fact, who shall be duly convicted thereof, before the Supreme Judicial Court, shall be punished by solitary imprisonment, for a term not exceeding one month, and by confinement afterwards to hard labour for a term not exceeding five years; or by a fine not exceeding one thousand dollars, and by imprisonment in the common gaol, not exceeding one year, at the discretion of the Justices of the said Court, before whom the conviction may be, and as they shall sentence and order thereupon, according to the nature and aggravation of the offence.

Punishment  
for wilfully set-  
ting fire to  
woods without  
leave

SEC. 6. *Be it further enacted,* That if any person or persons shall wittingly and willingly set fire to any woods or lands, lying in common, or to woodland, or other land held in severalty and not his own, within this State without leave first had and obtained from the owners of the land or those who have a right to give the same leave, excepting in cases in which it may become necessary to make back fires to stop the progress or subdue any fire that may be spreading, the person so offending shall forfeit and pay for each offence, ten dollars, one moiety thereof to the use of the State and the other moiety thereof to the use of him or them that shall inform and sue for the same; and shall be liable, in a special action on the case, to pay damages to all persons injured by such fire, including the injury which may be done by any necessary back fire made for the purpose aforesaid. And in case any person under age shall offend against this section, such penalty shall be recovered of the parent or master respectively, of such person under age, unless it shall appear such person under age was employed or directed by some person, other than the parent or master; in which case the person so employing or directing shall be liable therefor; and the fines in this section mentioned may be recovered in an action of debt, with costs of suit.

liable in dam-  
ages also.

Parents or  
masters of  
minors offend-  
ing liable for  
penalty in cer-  
tain cases.

Punishment  
for cruelly  
beating horses  
or cattle.

SEC. 7. *Be it further enacted,* That if any person shall cruelly beat any horse or cattle, and be thereof convicted, before a Justice of the Peace, he shall be punished by fine not less than two dollars nor more than five dollars, or by

imprisonment in the common gaol for a term not exceeding thirty days, according to the aggravation of the offence.

[Approved February '24, 1821.]

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## CHAPTER V.

An Act against Sodomy and Bestiality.

**BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any man shall commit the crime against nature with a man or male child, or any man or woman shall have carnal copulation with a beast, every such offender, being duly convicted thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term, not exceeding one year, and by confinement afterwards to hard labour for such term, not exceeding ten years, as the Justices of said Court, before whom the conviction may be shall sentence and order.

Crime of Sodomy.

Punishment.

[Approved Feb. 19, 1821.]

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## CHAPTER VI.

An Act providing for the punishment of Crimes of Burglary and other breaking and entering of buildings.

**SEC. 1.** **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person with intent to kill, rob, steal, commit a rape, or to do, or perpetrate any other felony, shall, in the night time, break and enter, or having with such felonious intent, entered, shall in the night time break a dwelling house, any person then being lawfully therein, and such offender being, at the time of such breaking or entering, armed with a dangerous weapon, or arming himself or herself in such house, with a dangerous weapon or committing an actual assault upon any person lawfully being in such house; every such offender, and any person present, aiding, assisting or consenting in such burglary, or accessory thereto before the fact, by counselling, hiring or procuring such burglary to be committed, who

Punishment of the crime of Burglary, the offender being armed with a dangerous weapon, or making an actual assault, and being accessory before the fact.

shall be duly convicted thereof in the Supreme Judicial Court, shall suffer the punishment of death.

Punishment of the offence when the offender is not so armed, & commits no assault on those in the house.

Accessories before the fact.

SEC. 2. *Be it further enacted,* That if any person, with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, shall, in the night time, break and enter, or having, with such felonious intent entered, shall in the night time break a dwelling house, without being armed with a dangerous weapon, or without arming himself, or herself in such house with a dangerous weapon, and without committing an assault upon any person lawfully being in such house; every offender and every person present, aiding and abetting in such burglary, or accessory thereto before the fact, by counselling, hiring or procuring such burglary to be committed, who shall be duly convicted thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment for such term not exceeding two years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, and by confinement afterwards to hard labour for life.

Punishment of accessories after the fact.

SEC. 3. *Be it further enacted,* That if any person, after any burglary committed as aforesaid, shall knowingly harbour, conceal, maintain, or assist any principal offender, or accessory thereto before the fact: every such accessory after the fact, who shall be thereof duly convicted in the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term, not exceeding three months, and by confinement afterwards to hard labour, for such term not exceeding ten years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

Punishment when the offender enters a dwelling house with such intent in the night time without breaking, or in the day time by breaking any dwelling house or other building.

Accessories before the fact.

SEC. 4. *Be it further enacted,* That if any person, with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, shall, in the night time, enter without breaking, or in the day time break and enter, any dwelling house, or any out house thereto adjoining and occupied therewith, or any office, shop or warehouse or any ship or vessel lying within the body of a County: every such offender and every person present, aiding or abetting in the commission of such offence, or who shall have counselled, hired, or procured the same to be committed, being thereof duly

convicted in the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term not exceeding six months, and by confinement afterwards to hard labour for such term not exceeding three years: or by a fine, not exceeding five hundred dollars, and imprisonment in the common gaol, not exceeding three years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

[Approved February 28, 1821.]

## CHAPTER VII.

An Act providing for the punishment of the crimes of Robbery and other larcenies, and for the prevention thereof.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Supreme Judicial Court shall have exclusively the jurisdiction of all larcenies where the money, goods or other article or articles stolen, shall be alleged to exceed in amount or value, the sum of one hundred dollars, the said Supreme Judicial Court and the Circuit Courts of Common Pleas, within their respective Counties, shall have concurrent jurisdiction of all larcenies, where the money, goods or other article or articles stolen, shall not be alleged to exceed in amount or value, the sum of one hundred dollars; and every Justice of the Peace, within his proper County, shall have concurrent jurisdiction with the said Courts, of all larcenies, where the money, goods or other article or articles stolen, shall not be alleged to exceed in amount or value, the sum of five dollars. And any person duly convicted before a Justice of the Peace of any larceny, either as principal or as accessory before or after the fact, shall be punished by such fine, not exceeding five dollars, and imprisonment in the common gaol for such term, not exceeding twenty days, either or both, as the said justice, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

Supreme Jud. Court to have exclusive jurisdiction of larcenies above 100 dollars.

S. J. Court & C. C. Com. Pleas, concurrent jurisdiction of larcenies, not exceeding 100 dollars.

Justs. of Peace to have concurrent jurisdiction of larcenies not exceeding five dollars.

Mode of punishment before Jus. of Peace.

SEC. 2. *Be it further enacted*, That any person who shall feloniously steal, take and carry away of the property of another, any money, goods, or chattels, or any bond, prom-

Punishment of simple larceny.

Being access-  
ary before the  
fact.

issory note, bill of exchange, or other bill, order or certificate, or any book of accounts for or respecting any money or goods, due or becoming due and payable, or to be delivered, or any deed or writing containing a conveyance of lands or other real estate, or any other valuable contract remaining in force, or any receipt, release or defeasance, or any writ, process, or public record, shall be deemed guilty of the crime of larceny; and every such offender, and any person present, aiding and abetting in any such larceny, or accessory thereto before the fact, by counselling, hiring or otherwise procuring the same to be done, who, before any Court having jurisdiction thereof, shall be duly convicted of either of the felonies and offences aforesaid, shall be punished, when the money, goods, or other article or articles stolen, shall not exceed in amount or value the sum of one hundred dollars, by solitary imprisonment for a term not exceeding six months, and by confinement afterwards to hard labour for a term not exceeding one year, or by a fine not exceeding one hundred dollars and imprisonment in the common gaol for a term not exceeding one year. And when the money, goods or other article or articles stolen, shall exceed in amount or value, the sum of one hundred dollars, then by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labour for a term not exceeding three years, to be ordered by the Court before whom the conviction may be, according to the degree and aggravation of the offence.

Punishment on  
a second con-  
viction as  
principal or  
accessary.

SEC. 3. *Be it further enacted*, That if any person having been before convicted of the crime of larceny, or as accessory thereto before the fact, shall afterwards commit or shall be alike accessory to another larceny, and shall be duly convicted thereof, before the Supreme Judicial Court; or if any person before the Supreme Judicial Court at one and the same term thereof, shall be duly convicted as principal or as accessory before the fact, in three distinct larcenies, every such offender shall be punished as a common and notorious thief, by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labour for a term not less than three years and not exceeding fifteen years, to be ordered as aforesaid.

SEC. 4. *Be it further enacted,* That if any person in the night time, shall break and enter any shop, warehouse or office, not adjoining to, or occupied with, a dwelling house, or any ship or vessel, lying within the body of a County, and shall there commit a larceny, every such offender, and every person present, aiding, and abetting in the commission of such felony, or accessory thereto before the fact, by counselling, hiring or procuring the same to be committed, and being thereof duly convicted before the Supreme Judicial Court, shall be punished by solitary imprisonment for such term not exceeding one year, and confinement afterwards to hard labour for such term, not exceeding fifteen years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

Punishment for breaking and entering shop, warehouse or office in night time.

SEC. 5. *Be it further enacted,* That if any person in the night time, shall enter, without breaking, or in the day time, shall break and enter any dwelling house, or out houses thereto adjoining, and occupied therewith, or any office, shop, warehouse, ship or vessel, as aforesaid, the owner or other person being therein and put in fear, every such offender, and any person present, aiding and abetting in the commission of such felony, or accessory thereto before the fact, by counselling, hiring or otherwise procuring the same to be done, upon due conviction thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labour for a term not exceeding ten years, to be ordered as aforesaid.

Punishment for entering a dwelling house &c. in night, without breaking, or in day time breaking and entering.

SEC. 6. *Be it further enacted,* That if any person shall in the day time commit any larceny in any dwelling house, office, shop, warehouse, ship or vessel, as aforesaid, or in the night time shall break and enter any church, meeting-house, court-house, town-house, college or academy, or other building erected for public uses, or any mill, malt-house, store, barn or stable, and shall commit any larceny therein, or shall be aiding and abetting in the commission of such felony, or shall be accessory thereto before the fact, by counselling hiring or otherwise procuring the same to be done, every such offender, upon conviction of either of the felonies

Punishment for committing larceny in dwelling-house, shop, office, &c. in day time, or breaking and entering in night a church or other public building, or store, barn, &c.

aforesaid, in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term not exceeding six months, and by confinement afterwards to hard labour, for a term not exceeding five years, to be ordered as aforesaid.

Punishment  
for robbery,  
when the of-  
fender is not  
armed with a  
dangerous  
weapon, nor  
intends to kill,  
&c.

SEC. 7. *Be it further enacted*, That any person, who shall by force and violence, or by other assault and putting in fear, feloniously steal, rob and take from the person of another, any money or goods, bank note, bill of exchange or other negotiable bill, note or order, due or in force, or any other property which may be the subject of larceny, shall be adjudged guilty of the crime of robbery; and every such offender, and any person present, aiding and abetting in the commission of such felony, or accessory thereto before the fact, by counselling, hiring or procuring the same to be done, who in the Supreme Judicial Court, shall be duly convicted of either of the felonies and offences aforesaid, shall be punished by solitary imprisonment for such term, not exceeding two years, and by confinement afterwards, to hard labour for life.

Punishment of  
robbery, when  
armed with  
dangerous  
weapon, and  
intending to  
kill, &c.

SEC. 8. *Be it further enacted*, That if any person shall commit an assault upon another, and shall rob, steal and take from his person, any money, goods or chattels, or any property which may be the subject of larceny, such robber being, at the time of committing such assault, armed with a dangerous weapon, with intent to kill or maim the person so assaulted and robbed; or if any such robber, being armed as aforesaid, shall actually strike or wound the person, so assaulted and robbed; every person so offending, and every person present, aiding and abetting in the commission of such felony, or who shall be accessory thereto before the fact, by counselling, hiring or procuring the same to be done and committed, and who shall be duly convicted thereof, shall suffer the punishment of death.

Death.

Punishment of  
assault with  
intent to rob—  
offender being  
armed with a  
dangerous  
weapon.

SEC. 9. *Be it further enacted*, That if any person being armed with a dangerous weapon, and with intent to commit robbery, shall assault another, every such offender, and every person present, aiding and abetting, or who shall be accessory before the fact, to the commission of the offence aforesaid, by counselling hiring or procuring the same to be done and committed, and who shall be thereof duly convicted,



shall be punished by solitary imprisonment for such term, not exceeding one year, and by confinement afterwards to hard labour for such term, not exceeding twenty years, as the Court, before whom the conviction may be, shall sentence and order.

SEC. 10. *Be it further enacted,* That if any person shall commit any other larceny from the person of another, either openly and violently, or privily and fraudulently, every such offender, and any person present, aiding and abetting in the commission of such felony, or accessory thereto before the fact, by counselling, hiring or otherwise procuring the same to be done, who shall be duly convicted in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labour for a term not exceeding five years, to be ordered by the Justices of the said Court, before whom the conviction may be, according to the aggravation of the offence.

Punishment of any other larceny from person.

SEC. 11. *Be it further enacted,* That if any person with a dangerous weapon, or other actual violence, and with intent to steal, in manner as aforesaid, shall assault another, every such offender, and any person present, aiding and assisting therein, or who shall have counselled or procured the same to be done, shall be deemed a felonious assaulter; and upon due conviction thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labour for a term, not exceeding ten years, to be ordered as aforesaid.

Punishment of assault with violence, or dangerous weapon with intent to steal.

SEC. 12. *Be it further enacted,* That if any person shall knowingly harbour, conceal or maintain any principal felon or accessory before the fact, in any robbery or larceny, committed in any manner as aforesaid, or shall receive or shall aid in concealing any money, goods or other article stolen as aforesaid; knowing the same to have been so stolen, in any such manner as aforesaid, every such offender upon due conviction of either of the offences as aforesaid, shall be deemed an accessory after the fact to the same robbery or larceny, and shall be punished by solitary imprisonment for such term not exceeding six months and by

Punishment of accessories to robbery or larceny after the fact.

confinement afterwards to hard labour for such term not exceeding three years, or by a fine not exceeding five hundred dollars, and by imprisonment in the common gaol, for such term not exceeding three years, or either of them, as the Justices of Court, before whom the conviction may be, shall and may sentence and order, according to the nature and aggravation of the offence.

Accessory to such felony may be prosecuted for misdemeanor, though principal is not convicted or prosecuted.

SEC. 13. *Be it further enacted,* That any person charged with the receipt or concealment of money, goods or other article stolen in any manner as aforesaid, knowing the same to have been stolen, may be prosecuted therefor as for a misdemeanor, although the principal felon chargeable, or charged with the larceny, shall not have been prosecuted or convicted; and upon due conviction thereof before any Court having jurisdiction of the principal offence, shall be punished in the same degree and manner, as an accessory after the fact might be, being alike convicted; but after prosecution for such misdemeanor, the person charged shall not be liable to be prosecuted as an accessory after the fact in the same larceny.

Punishment on a second conviction as receiver of stolen goods, or on conviction of three distinct offences of same kind, at same term.

SEC. 14. *Be it further enacted,* That if any person, having been before convicted as a receiver of money, goods or other articles stolen in any manner as aforesaid, shall afterwards knowingly receive or aid in the concealment of any other money, goods or other articles stolen, and shall be duly convicted thereof before the Supreme Judicial Court; or if any person shall be alike duly convicted before the Supreme Judicial Court, in the same term thereof, as a receiver of any money, goods or other articles aforesaid, stolen in any manner as aforesaid, in three distinct acts of receiving or concealing as aforesaid, every such offender shall be deemed a common receiver of stolen goods, and shall be punished by solitary imprisonment for such term, not exceeding one year, and by confinement afterwards to hard labour for such term, not less than three years, and not exceeding ten years, as the Justices of the said Court, before whom the conviction may be shall sentence and order, according to the nature and aggravation of the offence.

SEC. 15. *Be it further enacted,* That when any person, convicted for the first offence as a receiver of stolen goods,

or as accessory, after the fact, in any simple larceny and not adjudged to be a common receiver of stolen goods, shall make satisfaction to the party injured by such larceny to the full amount of the money, goods or articles stolen and not restored, the Justices of the Court before whom the conviction may be, shall exempt such receiver and accessory from the penalty of confinement of hard labour.

Case, in which Court may exempt convict from punishment by hard labour.

SEC. 16. *Be it further enacted*, That in every case of a conviction of larceny as aforesaid, the Justices of the Court before whom the conviction may be, shall have authority, at the prayer of the prosecutor therein, and at their discretion, to order for him or her a meet recompense, not exceeding his or her actual expenses, with a reasonable allowance for time and trouble in such prosecution, to be paid by the County Treasurer; and all payments which shall be made by any County Treasurer, pursuant to any order which may be granted as aforesaid, shall be the proper charge of this State, and shall be allowed in the manner which is or shall be provided for the reimbursement to the several Counties of other costs arising in criminal prosecutions.

Court may allow compensation to prosecutor for time and trouble;

—same to be charged to the State.

SEC. 17. *Be it further enacted*, That it shall be the duty of any Sheriff or other officer who shall be charged with, or lawfully employed in, apprehending and arresting any person accused of the crime of larceny or robbery, or as accessory therein, in any manner as aforesaid, to seize and secure the money, goods or other articles aforesaid, alleged to be stolen or to have been obtained by such larceny or robbery, and which shall be found in the possession of such accused person, or which shall be waved by him or her in flying from justice. And of the money, goods or other articles aforesaid, which shall be so found and secured, a true inventory or schedule shall be made in, or annexed to the return of such Sheriff or other officer, upon the warrant or process which shall have been issued for the arrest of any person accused as aforesaid; and such Sheriff or other officer shall be accountable for the money, goods or other articles thereby seized and secured. And whenever the conviction of any person accused as aforesaid, shall be had upon the prosecution, and by the care and diligence of the owner of any money, goods or articles, found and seized as aforesaid, such

Sheriff when he arrests a person accused—to seize goods, money, &c. and make inventory of them to be annexed to his return.

Sheriff accountable for such goods, &c.

on conviction to be delivered to owner. owner shall and may have restitution thereof immediately after such conviction, by an order in open Court, or by a writ of restitution as the case may require.

SEC. 18. *Be it further enacted*, That whenever, upon any conviction as aforesaid, such convict shall be sentenced to confinement to hard labour, such owner prosecuting as aforesaid, shall be allowed against each and every convict, the full amount or value of the money, goods or other articles stolen or obtained by such larceny, and not restored or satisfied for, to be charged against such convict at his or her place of confinement under such sentence, and to be paid from his or her net earnings, as the same shall accrue, and so far as they may extend. And when such convict shall be sentenced to fine or imprisonment in the common gaol, he or she shall be required by the sentence to pay to such owner prosecuting as aforesaid, the full amount or value of the money, goods or other article or articles stolen and not restored or satisfied for; and if any such convict shall be unable to make restitution, or pay the amount or value as aforesaid, the Justices of the Court before whom the conviction may be, may further sentence and order him or her to make satisfaction to such owner by service, who shall thereupon be empowered to take such convict in service, or to dispose of him or her to any person for such term of time, not exceeding three years, as shall be ordered by the said Justices: *Provided however*, That no such convict shall be held in gaol for such satisfaction of the amount or value, as aforesaid, for a longer term than thirty days, unless such owner shall give security to the keeper of the gaol, to satisfy the charge of keeping such prisoner from and after that time, according to the rate allowed for keeping prisoners in the same gaol; and if such owner shall refuse or neglect so to do, and shall not take or dispose of such prisoner, the keeper shall no longer keep such prisoner for that purpose, but may set him or her at liberty, after the expiration of the term of imprisonment, if any, ordered by the sentence, and after the payment of the costs of Court, and his own charges of imprisonment; and if he or she be unable to pay the same, upon application by the keeper of the gaol to any two Jus-

Convicts, sentenced to hard labour to be charged with value of goods stolen and not restored,

to be paid from his earnings, &c.

Court may empower owner of goods to dispose of convict in service—in case.

Proviso.

tices of the quorum, within the same County, they are hereby empowered to determine the sum to be paid, and to order such prisoner to make satisfaction by service, for such reasonable time, not exceeding two years, as they may assign, for which time the keeper may thereupon dispose of such prisoner in service to any citizen of the United States: And if he or she cannot be so disposed of, after being confined three months, for costs, or fine and costs only, the Justices of the Circuit Court of Common Pleas, within and for the same County, may, at their discretion, order such prisoner to be discharged upon such security as they may judge proper.

SEC. 19. *Be it further enacted*, That when any person, charged with the crime of larceny, or as an accessory therein, or as a receiver of money, goods or other articles stolen as aforesaid, shall and may be let to bail, the recognisance for the appearance of such person, shall be taken, with sufficient surety, or sureties, in such sum as may be reasonably required for that purpose; with a further additional sum which shall be double the amount or value of the money, goods or articles charged to have been stolen or obtained by such larceny; and when such recognisance shall be forfeited by default, the Justices of the Court before whom judgment may be rendered thereon, shall order the amount or value of the money, goods, or other articles stolen or obtained as aforesaid, to be paid out of the sum which shall be collected on such recognisance, to the owner of such money, goods or other articles, provided he shall have been the prosecutor.

Persons charged with larceny, &c. to recognise in a sum double the value of the goods — besides the sum required to secure their appearance.

[Approved March 19, 1821.]

## CHAPTER VIII.

An Act against Blasphemy, and profane Cursing and Swearing.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That if any person shall wilfully blaspheme the holy name of God, by denying, cursing, or contumeliously reproaching God, his creation, government, or final judging of the world, or by cursing or re-

Crime of blasphemy described.

## CHAPTER LIX.

An Act regulating Judicial Process and proceedings.

Mode of serving writs of attachment and summoning defendant.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives, in Legislature assembled,* That when the goods or estate of any person shall be attached at the suit of another, in any civil action, a summons in form prescribed by law, shall be delivered to the party whose goods or estate are attached, or left at his or her dwelling house or place of last and usual abode, fourteen days before the day of the sitting of the Court where such attachment is returnable; and if the defendant was not at any time an inhabitant or resident within this State, or has removed therefrom, then such summons shall be left with his tenant, agent or attorney; and such service shall be made by the officer to whom the writ may be directed who shall return the same according to the precept thereof: and if such defendant shall not have a tenant, agent or attorney within the State, and his goods or estate shall be attached as aforesaid, the officer shall return the writ with his doings thereon; and such action being duly entered, the Court may order such notice to the defendant, as justice may require.

Mode of serving original summons, &c.

SEC. 2. *Be it further enacted,* That in all suits wherein the process is by original summons, as against executors, administrators or guardians, in ejectment, dower, scire facias, error, review, and all other civil actions wherein the law does not require a separate summons to be left with the defendant, the service thereof by the proper officer shall be good and valid in law, either by his reading the writ or original summons to the defendant, or by leaving a certified copy thereof at his or her house or place of last and usual abode, fourteen days before the same is returnable; and in all real actions, where the defendant or defendants in review live out of the State, so that the writ of review cannot be served upon him or them, the service of such writ upon the tertenant or person in possession shall be deemed a good and sufficient service, and the defendant or defendants shall be held to answer thereupon accordingly.

in writs of review, where defendants are out of State.

of the Circuit Court of Common Pleas shall be binding on the parties throughout the whole process of the suit.

Indictment to be found in the county where death happened, though mortal wound were given in another county:

SEC. 40. *Be it further enacted,* That where any person shall be feloniously stricken, poisoned or injured in one county in this State, and die of the same stroke, poisoning or injury in another county thereof; that then an indictment thereof, found by the Grand Jurors of the county where the death shall happen, before the Justices of the Supreme Judicial Court there held, shall be as good and effectual in law as if the stroke had been given, or poisoning, or injury, done in the same county where the party shall die, or where the said indictment shall be found.

So if mortal wound were given on high seas.

SEC. 41. *Be it further enacted,* That where any person shall be feloniously stricken, poisoned or injured, on the high seas and without the limits of this State, and die of the same stroke, poisoning or injury, in any county thereof, that then an indictment thereof found by the Grand Jurors of the county where the death shall happen before the Justices of the Supreme Judicial Court there held, shall be as good and effectual in law as if the stroke had been given, or poisoning or injury done in the same county where the party shall die.

Proceedings when a person indicted stands mute.

SEC. 42. *Be it further enacted,* That if any person shall be indicted of any offence against this State for which the punishment is or shall be declared to be death, and shall stand mute, or refuse to plead, the Court shall proceed to the trial of the person so standing mute in the same manner as if he or she had pleaded not guilty, and shall render judgment accordingly. And no person who shall be indicted for any such offence, shall be allowed to challenge peremptorily above the number of twenty persons of the Jury.

If the accused be acquitted of part of felony charged and convicted of residue.

What judgment Court may render.

SEC. 43. *Be it further enacted,* That when any person indicted of any felony, shall be by the verdict of the Jury of trials upon such indictment acquitted from part of such indictment, and convicted of the residue thereof, any such verdict may be accepted and recorded in the Court where such trial shall be; and thereupon such person so indicted, may be adjudged to be guilty of the offence, if any, which shall appear to such Court to be substantially alleged in and by the residue of such indictment, if the same shall amount

to a felony, and shall be sentenced and punished accordingly.

SEC. 44. *Be it further enacted,* That any person who shall be held in prison upon suspicion of having committed a crime for which he may have sentence of death passed upon him, shall be bailed or discharged, if he is not indicted at the second term of the sitting of the Supreme Judicial Court in the county where the crime is alleged to have been committed, when there are two terms a year in such county. And in such counties as have but one Supreme Judicial Court in a year, the defendant shall be bailed or discharged, if he is not indicted at the first term: *Provided,* Such person shall have been held in prison for the space of six months next preceding the day of the sitting of the Court. And when any person shall be held in prison under indictment, he shall be tried or bailed at the first term next after his indictment, if he demands the same, unless it shall appear to the Court that the witnesses, on behalf of the government, have either been enticed away or are detained by some inevitable accident from attending. And all persons under indictment for felony shall be bailed or tried at the second term after the bill shall be returned, if they demand it.

Persons in prison, on suspicion, to be bailed or discharged, unless indicted at second term where two Courts are held in the year, or at first term, if there be but one.

Provided he has been in prison six months.

If in prison and indicted, to be tried or bailed at first term, if demanded, after indictment found.

Persons indicted to be tried or bailed at second term.

SEC. 45. *Be it further enacted,* That in all informations to be exhibited, and in all actions or suits to be commenced against any person or persons, on the behalf of any informer, or on the behalf of the State, and any informer for or concerning any offence committed or to be committed against any penal statute, the offence shall be laid and alleged to have been committed in the county where such offence was in truth committed and not elsewhere, and if the defendant, in any such information, action or suit, pleadeth that he owes nothing, or that he is not guilty, and the plaintiff or informer in such information, action or suit, upon evidence to the Jury that shall try such issue, shall not both prove the offence laid in the said information, action or suit, and that the same offence was committed in that county, the issue shall be found for the defendant or defendants.

Informations and actions on penal statutes, on behalf of informer, or State and informer—where to be brought and tried.

SEC. 46. *Be it further enacted,* That if any information, suit or action, shall be brought or exhibited against any person or persons for any offence committed against the form

In such information or action defendant may



plead general  
issue and give  
special matter  
in evidence.

of any penal law, on behalf of any informer; or on behalf of the State and any informer, it shall be lawful for such defendants to plead the general issue, and give any special matter in evidence to the Jury, which shall be as available to him or them; as if he or they had sufficiently pleaded the same matter in bar, or discharge of such information, suit or action.

No person to  
be executed  
but by warrant  
from Supreme  
Executive,  
&c.

SEC. 47. *Be it further enacted*, That no person upon whom sentence or judgment of death shall be passed or given by the Justices of the Supreme Judicial Court, shall be executed in pursuance of such judgment, before the whole record of such proceedings or case be certified by the Clerk of the same Court, under the seal thereof to the Supreme Executive Authority of this State, nor until a warrant shall be issued by the said Supreme Executive Authority, under the great seal of this State, with a copy of the record thereunto annexed, directed to the Sheriff of the county wherein the trial of the person so convicted as aforesaid, was had, commanding the same Sheriff to cause execution to be done upon the person so convicted as aforesaid; in all things according to the judgment against him. And the Sheriff to whom such warrant shall be directed is hereby authorized and required to execute the same in due form of law.

[Approved March 19, 1821.]

## CHAPTER LX.

An Act respecting the Attachment of Property on Mesne Process, and directing the issuing, extending, and serving of Executions.

Attachment to  
hold for 30  
days after  
judgment.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That all goods and estate attached upon mesne process for the security of the debt or damages sued for, shall be held for the space of thirty days after final judgment, to be taken in execution; and if the creditor shall not take them in execution within thirty days after judgment, the attachment shall be void. And the share or shares, or interest of any person in any turnpike, bridge, canal or other company which heretofore has been, or hereafter may be incorporated, with all the

Attachment of  
shares in com-  
panies to bind  
the same and